

CONGRESSIONAL RECORD SUMMARY

Thursday, June 27, 2002, Part II

SENATE

Measures Introduced:

S. 2689. A bill to establish a United States-Canada customs inspection pilot project; to the Committee on Finance.

Levin

Pages S 6249-50

S. 2690. *A bill to reaffirm the reference to one Nation under God in the Pledge of Allegiance; considered and passed.*

Hutchinson

Page S 6250

S. 2693. A bill to amend the Internal Revenue Code of 1986 to encourage retirement savings for individuals by providing a refundable credit for individuals to deposit in a Social Security Plus account, and for other purposes; to the Committee on Finance.

Dorgan

Pages S 6250, S 6253-5

S. Con. Res. 125. *A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.*

Daschle

Pages S 2650, S 6264

Measures Reported:

S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology, with an amendment. (Senate Report No. 107-186)

S. 2134, to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states, *with an amendment.*

S. 2633, to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purposes.

Pages S 6249, D 696-7

Measures Passed:

National Defense Authorization: By 97 yeas to 2 nays (Vote No. 165), *Senate passed S. 2514,* to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, and to prescribe personnel strengths for such fiscal year for the Armed Forces, after taking action on amendments proposed thereto.

Pages S 6178-80, S 6182-200, S 6203-25

D 697

Department of Defense Authorization: *Senate passed S. 2515,* to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, and to prescribe personnel strengths for such fiscal year for the Armed Forces, *after striking all after the enacting clause and inserting in lieu thereof Division A of S. 2514, National Defense Authorization, as amended.*

Pages S 6225, D 697

Measures Passed (Cont'd.):

Military Construction Authorization: Senate passed S. 2516, to authorize appropriations for fiscal year 2003 for military construction, *after striking all after the enacting clause and inserting in lieu thereof Division B of S. 2514, National Defense Authorization, as amended.*

Pages S 6225, D 697

National Defense Authorization: Senate passed H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, *after striking all after the enacting clause and inserting in lieu thereof the text of S. 2514, Senate companion measure, as amended and passed by the Senate.*

Pages S 6225, D 697

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Levin, Kennedy, Byrd, Lieberman, Cleland, Landrieu, Reed, Akaka, Nelson (FL), Nelson (NE), Carnahan, Dayton, Bingaman, Warner, Thurmond, McCain, Smith, Inhofe, Santorum, Roberts, Allard, Hutchinson, Sessions, Collins, and Bunning.

Pages S 6225, D 697-8

Adjournment Resolution: Senate agreed to S. Con. Res. 125, *providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.*

Pages S 6225, D 698

E-Government Act: Senate passed S. 803, *to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto:*

Pages S 6277-95, D 698

Reid (for Lieberman/Thompson) Amendment No. 4172, *in the nature of a substitute.*

Pages S 6266-75, S 6295, D 698

See Pages S 6269-70: TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

SEC. 205. FEDERAL COURTS

(a) Individual Court Websites.--The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

Measures Passed (Cont'd.):

See Pages S 6269-70: TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF

ELECTRONIC GOVERNMENT SERVICES.

SEC. 205. FEDERAL COURTS (Cont'd.)

(c) Electronic Filings.--

(1) In general.--Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) Exceptions.--Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) Privacy and security concerns.--The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) Dockets With Links to Documents.--The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

To Reaffirm The Reference To One Nation Under God In The Pledge Of Allegiance (S. 2690).

Pages S 6225-8

"... It is appalling that this court took the time and judicial resources to resuscitate this case which the district court had already dismissed for failing to state a claim. [] He [Dr. Newdown, the plaintiff] did this at a time when Federal judicial resources are very strained. The Nation is trying to function in the speedy manner required by the sixth amendment, with 89 judicial vacancies, a staggering number, representing 10 percent of the Federal judiciary. According to the Judicial Conference, in the past three decades, a U.S. Courts of Appeals judges' average caseload increased by nearly 200 percent. In light of these strained resources, it is appalling to me that the court took time to resuscitate this very flawed case. [] Finally, I commend the Judiciary Committee today in voting out the nomination of Lavenski Smith to the Eighth Circuit Court of Appeals. Lavenski Smith, who is from the State of Arkansas will make an outstanding jurist on the Federal bench. He is supremely well qualified as a former member of the Arkansas Supreme Court. He understands the proper role of the judiciary..." (Hutchinson, pages S 6225-6)

Unanimous Consent Request--Executive Calendar.

Pages S 6230-5

"... Before the Chair rules, I wish to indicate this request is with respect to 15 judicial nominations, some of which have been on the calendar since May 2. These are nominations that are pending in the Senate, not in the Judiciary Committee. They are ready for consideration by the entire Senate with only one exception; I know of no objections. [] Senators and the American people are shocked that two Federal circuit judges were capable of making such an absurd decision. The fact that they did points up, once again, how vitally important these Federal judicial appointments are in guiding not only the country's present, but its future as well. Judges are important at every level, but particularly at the appellate court, the circuit court level. This preposterous decision about the Pledge of Allegiance, which Senators have been outraged about, was handed down by three circuit court judges who voted 2-1 that reciting the Pledge violated the Constitution's Establishment Clause protections. I should note that the vigorous dissent in the case was filed by Judge Ferdinand Fernandez, who was appointed by the first President Bush, and who went into great detail since echoed by many members of this chamber--as to why the other two judges views and reading of the law are both unfounded and inappropriate. An interesting fact about these three judges is that two of the three are actually on senior status which means they are not considered active judges and are semi-retired. The fact that semi-retired judges were deciding is an indication in and of itself that there are problems in this circuit court and there are clearly major problems in the Ninth Circuit Court of Appeals..." (Lott, page S 6231)

Unanimous Consent Request--Executive Calendar (Cont'd.)

"... Twenty-eight active judges are authorized for the Ninth Circuit and five of those seats are vacant. Due to the heavy caseload in the Circuit, all five of those vacancies have been declared judicial emergencies by

the Administrative Office of the Courts. President Bush has nominated individuals to fill three of those five vacancies, one from Hawaii who is supported by both of the Democrat Senators from his state has pending on the Executive Calendar since May 16, another from California has been held up in the Committee since June 22nd of last year without even a hearing, and the third from Nevada has been in the Committee for two months...” (Lott, page S 6231)

“... There are very fine men and women serving in that court. I am not here today to defend in any way President Nixon's appointment to the court or President Carter's appointment to the court the two people who wrote that decision. We would all acknowledge it is wrong. I am confident that the Ninth Circuit, when they meet en banc, will stay that decision made by the two judges...” (Reid, page S 6232)

Remark:

Patent And Trademark Authorization Act Of 2002.

Leahy

Pages S 6235-6

HOUSE

Bills Introduced:

H.R. 5040. A bill *to amend the Toxic Substances Control Act, the Internal Revenue Code of 1986, and the Public Buildings Act of 1959 to protect human health from toxic mold*, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Conyers

Page H 4324

H.R. 5041. A bill to amend the Immigration and Nationality Act concerning loss of nationality for actions supporting terrorism against the United States; to the Committee on the Judiciary.

Hansen

Page H 4324

H.R. 5049. *A bill to amend title 28, United States Code, to provide for an additional place of holding court in the Southern District of Ohio; to the Committee on the Judiciary.*

Ney

Page H 4325

H.R. 5050. A bill to establish the Market Integrity Commission to study issues relating to the governance of corporations in interstate and foreign commerce; to the Committee on Energy and Commerce.

Greenwood

Page H 4325

H.R. 5051. A bill to *enhance the criminal penalties for illegal trafficking of archaeological resources*, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Pallone

Page H 4325

Bills Introduced (Cont'd.):

H.R. 5057. *A bill to prevent and punish counterfeiting and copyright piracy, and for other purposes; to the Committee on the Judiciary.*

Smith

Page H 4325

H.J. Res. 103. A joint resolution *proposing an amendment to the Constitution of the United States* with respect to the Pledge of Allegiance; to the Committee on the Judiciary.

Green

Page H 4325

H.J. Res. 104. A joint resolution *proposing an amendment to the Constitution of the United States* to protect the Pledge of Allegiance; to the Committee on the Judiciary.

Lucas

Page H 4325

H.R. 5010. Department of Defense Appropriations:

The House passed H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003 by a ye-a-and-nay vote of 413 yeas to 18 nays, Roll No. 270.

Pages H 4076-H 4110, H 4111-19, D 700

H. Res. 461, the rule that provided for consideration of the bill was agreed to by voice vote.

Pages H 4076, D 700

Suspension:

The House agreed to suspend the rules and pass the following measure that were debated on June 25:

Urging the Ninth Circuit Court of Appeals to Rehear Their Erroneous Ruling That the Pledge of Allegiance is an Unconstitutional Endorsement of Religion: *The House agreed to suspend the rules and agreed to H. Res. 459, expressing the sense of the House of Representatives that Newdow v. U.S. Congress was erroneously decided by a ye-a-and-nay vote of 416 yeas to 3 nays with 11 voting "present," Roll No. 273.*

Pages H 4125-36, D 701

"... Incredibly, the Ninth Circuit Court of Appeals decided to overturn a 1954 act of Congress, which added the phrase 'under God' to the Pledge of Allegiance, ruling that these two words violated the Constitution's Establishment Clause which requires the separation of church and state. [] On a personal note, Mr. Speaker, in 1976, in the Georgia legislature, my friend, Tommy Tolbert, and I provided an amendment to the education bill that required every class in Georgia to make available at some point during every day the Pledge of Allegiance for the students in those classes throughout Georgia; and now some clown from the Ninth Circuit, as it has been called, decides that the Congress did not know what it was doing in 1954..." (Linder, page H 4121)

"...The Ninth Circuit ruling treated the word God as a poison pill. Rarely has any court, even the notoriously liberal Ninth Circuit, shown such disdain for the will of the people, an act of Congress and our American traditions. [] In truth, yesterday's ruling is the latest in a string of rulings by misguided courts misinterpreting the Constitution's establishment clause..." (Sensenbrenner, page H 4125)

Suspension (Cont'd.):

"... Mr. Speaker, on constitutional issues, the judicial branch and the Supreme Court is the law of the land, even if those decisions are unpopular. If we had to wait for school integration to be popular in America, people in many States would still be going to segregated schools. It is important that we note that the Supreme Court is the law of the land on constitutional issues..." (Scott, page H 4126)

Earlier, agreed to H. Res. 463, the rule that provided for consideration of the motion to suspend the rules by voice vote.

Pages H 4121-5, D 701

H.R. 5011. Military Construction Appropriations:

The House passed H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003 by a ye-a-and-nay vote of 426 yeas to 1 nay, Roll No. 277.

Pages H 4136-54, D 701

The House agreed to H. Res. 462, the rule that provided for consideration of H.R. 5011 and S. 2578 by a ye-a-and-nay vote of 269 yeas to 160 nays, Roll No. 276. Agreed to the Myrick amendment that made it in order, upon adoption of the rule and without the intervention of any point of order, to consider in the House, S. 2578, to amend title 31 of the United States code to increase the public debt limit, by a recorded vote of 219 ayes to 211 noes, Roll No. 275. Earlier, agreed to order the previous question on the amendment and the rule by a ye-a-and-nay vote of 221 yeas to 210 nays, Roll No. 274. Pursuant to section 2 of the rule, H. Res. 421 was laid on the table.

Pages H 4141-3, D 701

S. 2578. Debt Limit Increase:

The House passed S. 2578, to amend title 31 of the United States Code to increase the public debt limit by a recorded vote of 215 ayes to 214 noes with 1 voting "present," Roll No. 279--clearing the measure for the President.

Pages H 4154-66, D 701

Rejected the Moore motion to commit the bill to the Committee on Ways and Means with instructions to report it back forthwith with an amendment in the nature of a substitute that increases the debt limit by \$150 billion by a ye-a-and-nay vote of 207 yeas to 222 nays, Roll No. 278.

Pages H 4165-6, D 701

The bill was considered pursuant to the provisions of H. Res. 462, as amended.

Pages H 4164, D 701

H.R. 4954. Medicare Modernization and Prescription Drug Act:

The House passed H.R. 4954, to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program and to modernize and reform payments and the regulatory structure of the Medicare Program by a recorded vote of 221 ayes to 208 noes, Roll No. 282.

Pages H 4166-H 4320, D 701

Rejected the Gephardt motion to recommit the bill jointly to the Committees on Ways and Means and Energy and Commerce with instructions to report it back promptly with an amendment in the nature of a substitute that establishes the Medicare Prescription Drug Benefit and Discount Act by a recorded vote of 204 ayes to 223 noes, Roll No. 281.

Pages H 4297-H 4320, D 701

H.R. 4954. Medicare Modernization and Prescription Drug Act (Cont'd.):

See Pages H 4214-16: Subtitle D—Appeals and Recovery

SEC. 831. TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS

SEC. 832. PROCESS FOR EXPEDITED ACCESS TO REVIEW (JUDICIAL)

SEC. 833. REVISIONS TO MEDICARE APPEALS PROCESS

Pursuant to the rule, in lieu of the amendment recommended by the Committee on Ways and Means, the

amendment in the nature of a substitute printed in H. Rept. 107-552 was considered as adopted.

Pages H 4297, D 701

Agreed to H. Res. 465, the rule that provided for consideration of the bill by a yea-and-nay vote of 218 yeas to 213 nays, Roll No. 280.

Pages H 4181-2, D 701

S. Con. Res. 125. Fourth of July District Work Period:

The House agreed to S. Con. Res. 125, providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

Pages H 4321, D 701

Next SENATE MEETING: Friday, 9:30 a.m., June 28, 2002.

Next HOUSE MEETING: Monday, 2:00 p.m., July 8, 2002.

OLA: S. Schwarz, A. Santos